INFORMATION BULLETIN

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Improvements to certain fiscal measures

The purpose of this information bulletin is to make public the withdrawal, for the purposes of the refundable tax credit for home support of elderly persons, of the deductible applicable to the first $300 of expenses paid to obtain recognized home support services.

It also describes the application of the specific tax on lodging of $2 per overnight stay in the Manicouagan tourist region and makes a clarification regarding the assignment of a tax refund by a corporation.

Lastly, it describes the new exemptions granted for determining premiums under the prescription drug insurance plan.

For information on the issues dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the website of the ministère des Finances at: www.finances.gouv.qc.ca

Paper copies are also available, on request, from the Direction des communications, at 418 528-9323.

Finances Québec

Improvements to certain fiscal measures

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1. Withdrawal of the $300 deductible applicable to expenditures eligible for the refundable tax credit for home support of elderly persons

Since 2000, the tax system grants an individual 70 years of age or over a refundable tax credit regarding the eligible expenses he has incurred to obtain recognized home support services (domestic services and direct personal services).

The primary objective of this tax credit is to provide financial assistance to elderly persons to make it easier for them to remain in their home and, as a result, avoid or delay having to take up residence in a facility of the public health and social services network.

In the course of the March 23, 2006 Budget Speech, it was announced that many of the parameters of this tax credit would be changed to simplify its application, increase access to the tax credit and provide more assistance to elderly persons who have substantial expenses.

Accordingly, besides the fact that the refundable tax credit for home support of elderly persons will be administered entirely by Revenu Québec as of January 1, 2007, it was announced in particular that the rate of the tax credit would rise from 23% to 25%, that the annual limit on eligible expenses applicable to an elderly person will be raised from $12 000 to $15 000 and that the amounts paid to obtain nursing care could give rise to the tax credit.

In addition, to ensure that the tax assistance granted by this tax credit is directed solely to people who have to pay relatively large amounts for home support services, it was announced that the first $300 paid in a year by an elderly person to obtain recognized home support services, commonly known as the "$300 deductible", would no longer be considered an expense eligible for the tax credit.

Considering that the effect of this new orientation is to impede, in certain cases, achievement of the primary objective of the tax credit, and to ensure the universality of tax assistance regarding home support of persons age 70 or over, the $300 deductible will not be implemented.

2. Application of the tax on lodging in the Manicouagan tourist region

The government has set up a tourist partnership fund to strengthen and sustain tourist promotion and development in Québec. The fund is financed in part by a tax on lodging applicable to each sleeping-accommodation unit rented in a sleeping-accommodation establishment located in a Québec tourist region which requests the government accordingly through its regional tourist association (RTA).

RTAs that want the lodging tax to apply in their territory may choose between the imposition of the specific tax of $2 per overnight stay or the imposition of an *ad valorem* tax of 3% of the price of each overnight stay.

The revenue generated by this tax, after deducting the costs of its administration, are remitted to the participating regions and the amounts thus remitted are used in accordance with the terms and conditions agreed to in a memorandum of understanding between the ministère du Tourisme and the RTAs of these participating regions. Currently, the tax is applicable in 16 of the 21 Québec tourist regions, namely Montréal, Laval, Québec, Charlevoix, Outaouais, Saguenay–Lac-Saint-Jean, Cantons-de-l'Est, Chaudière-Appalaches, Centre-du-Québec, Gaspésie, Bas-Saint-Laurent, Lanaudière, Mauricie, Abitibi-Témiscamingue, Montérégie and Laurentides tourist regions.

Following requests submitted by the RTA of Manicouagan, the specific tax on lodging of $2 per overnight stay will apply in the Manicouagan tourist region as of January 1, 2007.

Accordingly, the tax will be applicable regarding any sleeping-accommodation unit rented in a sleeping-accommodation establishment located in the Manicouagan tourist region, when the sleeping-accommodation unit is billed by the operator of the establishment after December 31, 2006 for occupation after that date.

However, the operator of a sleeping-accommodation establishment will not have to pre-collect the tax in respect of sleeping-accommodation units billed to a travel intermediary when the price of these units has been set under an agreement reached before January 1, 2007 between the operator of the establishment and the travel intermediary, and occupation by tourist customers takes place between December 31, 2006 and October 1, 2007.

The territorial entities included in the Manicouagan tourist region are listed in the appendix.

3. Clarification concerning the assignment of a tax refund by a corporation

In the March 9, 1999 Budget Speech, it was announced that the tax legislation would be amended to provide easier access for corporations to financing in relation to amounts payable to them under the *Taxation Act*. Accordingly, further to this amendment, a corporation may assign to a third party the right to claim an amount payable to it under the Act. However, such assignment is not binding on the State and, consequently:

— the Minister of Revenue retains his discretion as to whether or not to pay the amount to the assignee[1];

— the assignment creates no obligation on the State in favour of the assignee;

— the rights of the assignee are subject to the rights of offset of which the State may avail itself.

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[1] In fact, the Minister of Revenue exercises his discretion to pay an amount only on account of certain refundable tax credits.

Essentially, this change was necessary because of the fact that under the *Act respecting the ministère du Revenu*, any amount due by the State regarding a tax law on account of a refund is inalienable and non-seizable, subject to exceptions expressly stipulated by the tax legislation.

A recent ruling[2] by the Superior Court has cast doubt on the scope of the amendment announced in 1999, more specifically regarding the validity of a hypothec, as opposed to an absolute assignment. According to this ruling, a tax refund cannot be covered by a hypothec because the provisions of civil law stipulate that non-seizable property cannot be covered by a hypothec.

In this regard, it seems opportune to note that the restriction concerning the exemption from seizure of an amount due under a tax law is intended exclusively to protect the rights and privileges of the State, and not to institute an absolute non-seizable character. In other words, the non-seizable character of an amount due under a tax law is relative and only concerns the State as debtor.

Moreover, once the State has availed itself of its privileges and exercised its rights, it acknowledges the effects of an assignment of an amount payable to a corporation under the *Taxation Act*[3].

In view of the preceding and the willingness to facilitate the financing of corporations in relation to refundable tax credits they may be entitled to, for instance by means of a movable hypothec, the tax legislation will be amended to better reflect fiscal policy in this regard. Accordingly, a corporation may also hypothec entitlement to an amount payable to it under the *Taxation Act*.
However, for greater clarity, this amendment will in no way restrict the discretion of the Minister of Revenue nor the rights of the State regarding the amount to be refunded under the Taxation Act, as described above.

This amendment will apply retroactively to the entry into force of the exception announced in 1999, except regarding an amount due by the State, covered by the discretion exercised by the Minister of Revenue and being the object of a procedure pending before a court the day of publication of this information bulletin.

4. Increase in the exemptions granted for determining premiums under the prescription drug insurance plan

The basic prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec (RAMQ), or by insurers transacting group insurance or administrators of private-sector employee benefit plans.

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2 *In the matter of the bankruptcy of: 111295 Canada Inc. and H.H. Davis & Assoc. Inc. vs Royal Bank of Canada*.

3 Subject to the field of application of the discretion exercised by the Minister of Revenue (certain refundable tax credits only).

As a rule, all persons whose coverage is provided by RAMQ in a given year must, in filing their income tax return for that year, pay a premium to finance the Québec prescription drug insurance plan, of which they are beneficiaries. However, to take each person's ability to pay into account, deductions are granted in calculating this annual premium. The amount of these deductions is set, in particular, so as to exempt from payment of the annual premium a person or a couple whose income consists solely of the old age security pension and the maximum guaranteed income supplement paid by the federal government.

To adhere to the principle of taking each person's ability to pay into account in determining the amount of the premiums that must be paid to finance the Québec prescription drug insurance plan, adjustments must be made to the amounts of the deductions used to calculate the premiums payable for 2006.

The following table shows the deductions that will be granted in calculating the premiums payable by persons whose coverage is provided by RAMQ in 2006.

Deductions according to family situation – Québec prescription drug insurance plan (2006)
(in dollars)

Family situation	Deduction
1 adult, no children	13 020
1 adult, 1 child	21 100
1 adult, 2 children or more	23 975
2 adults, no children	21 100
2 adults, 1 child	23 975
2 adults, 2 children or more	26 625

APPENDIX

MANICOUAGAN TOURIST REGION

	Geographic code
— Baie-Comeau	96020
— Baie-Trinité	96005
— Betsiamites	96802
— Chute-aux-Outardes	96035
— Colombier	95050
— Essipit	95802
— Forestville	95045
— Franquelin	96015
— Godbout	96010
— Lac-au-Brochet	95902
— Les Bergeronnes	95018
— Les Escoumins	95025
— Longue-Rive	95032
— Pointe-aux-Outardes	96030
— Pointe-Lebel	96025
— Portneuf-sur-Mer	95040
— Ragueneau	96040
— Rivière-aux-Outardes	96902
— Sacré-Cœur	95010
— Tadoussac	95005